

PCT

WIPO



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

| | | |
|---|--|--|
| Applicant's or agent's file reference F7661 (V) | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) | |
| International application No. PCT/EP 03/07407 | International filing date (day/month/year) 09.07.2003 | Priority date (day/month/year) 30.07.2002 |
| International Patent Classification (IPC) or both national classification and IPC A23L1/16 | | |
| Applicant UNILEVER N.V. et al | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

| | |
|---|--|
| Date of submission of the demand 27.11.2003 | Date of completion of this report 01.06.2004 |
| Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016 | Authorized Officer Inceisa, L Telephone No. +31 70 340-3876  |

BEST AVAILABLE COPY

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/07407**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-9 as originally filed

Claims, Numbers

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/07407**

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-10 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-8 |
| | No: Claims | 9,10 |
| Industrial applicability (IA) | Yes: Claims | 1-10 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP03/07407

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document:

D1: US-A-5211977

1. NOVELTY (ART. 33(2) PCT)

The subject-matter of claims 1-10 is new according to the available prior art.

2. INVENTIVE STEP (ART. 33(3) PCT)

Document D1 which is regarded as being the closest prior art to the subject-matter of claim 1 discloses a fully cooked shelf stable pasta product (e.g. spaghetti, macaroni) comprising 15-35% water (based on the total weight of the dough) and a farinaceous ingredient (e.g. durum semolina) in an amount of from 75-85% based on the dry ingredient mixture (= 49-72% based on the dough). The pasta may further contain alginate in amount of 0,35%, after packaging in a plastic pouch, the pasta is pasteurized for 40 min. at 95°C (see page 2 line 50 - page 3 line 6; page 7-8 Example 9).

The subject-matter of claim 1 differs from D1 in that the pasta is additionally treated with a CaCl_2 solution after cooking and the final product is sterilized instead of pasteurized.

The problem to be solved by the present invention may be regarded as how to produce packed, ambient stable pasta, which is not sticky and has a good appearance, equivalent to homemade pasta.

The problem is solved by treating the pasta which contains alginate with a CaCl_2 solution after cooking.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP03/07407

The step of immersing the pasta in a CaCl_2 solution is not suggested in D1 and the problem of a non-sticky texture is not mentioned. It is therefore not obvious for the skilled person to add this feature, when preparing a ready-to-eat pasta.

The subject-matter of claim 1 is therefore considered inventive.

Claims 2-8 are dependent on claim 1 and are also inventive.

2.2 The subject-matter of claim 9 differs from D1 in that the pasta is sterilized instead of pasteurized.

Sterilizing and pasteurizing food products are known and common preservation methods, which have no unexpected technical effect according to the problem. The skilled person would therefore regard it as a normal procedure to replace a pasteurizing step by a sterilization step, in accordance with circumstances, without the exercise of inventive skill, in order to preserve a food product.

The subject-matter of claim 9 therefore does not involve an inventive step in the sense of Article 33(3) PCT.

Claim 10 does also not meet the requirements of the PCT in respect of inventive step, as it relates to specific pasta types, which are all known.